



House of Representatives

General Assembly

File No. 354

January Session, 2001

Substitute House Bill No. 6603

House of Representatives, April 18, 2001

The Committee on Planning and Development reported through REP. DAVIS of the 50th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT PROVIDING FINANCIAL INCENTIVES FOR DEVELOPMENT OF LIVABLE COMMUNITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-23 of the general statutes is amended by adding
2 subsection (d) as follows:

3 (NEW) (d) The planning commission of any municipality may
4 amend the plan of conservation and development to reflect the
5 following principles: (1) The promotion of complete and integrated
6 communities containing housing, shops, workplaces, schools, parks
7 and civic facilities essential to the daily life of residents; (2) the design
8 of community size to ensure that housing, jobs, daily needs and other
9 activities are within easy walking distance of each other; (3) the
10 location of as many activities as possible within walking distance of
11 transit stops; (4) the presence of a wide variety of housing types
12 enabling citizens from a wide range of economic levels and age groups

13 to live within the municipality; (5) the presence of businesses within
14 the community that provide a range of job types for residents; (6) a
15 transit network that is consistent with the location and character of the
16 community; (7) a center focus that combines commercial, civic, cultural
17 and recreational uses; (8) open space in the form of squares, greens and
18 parks whose frequent use is encouraged through placement and
19 design; (9) public spaces that encourage the attention and presence of
20 people at all hours of the day and night; (10) the provision of a well-
21 defined edge for each community or cluster of communities, such as
22 agricultural greenbelts or wildlife corridors, permanently protected
23 from development; (11) a system of fully-connected intersecting routes
24 to all destinations that includes streets, pedestrian paths and bike
25 paths, designed to encourage pedestrian and bicycle use by being
26 small and spatially defined by buildings, trees and lighting and by
27 discouraging high speed traffic; (12) the preservation, if possible, of the
28 natural terrain, drainage and vegetation of community; (13) a
29 community design that conserves resources and minimizes waste; (14)
30 the efficient use of water by natural drainage, drought tolerant
31 landscaping and recycling; (15) the design of an energy efficient
32 community through street orientation, the placement of buildings and
33 the use of shading; and (16) presentation of visual models for
34 development applications.

35 Sec. 2. Subsection (a) of section 8-2 of the general statutes is repealed
36 and the following is substituted in lieu thereof:

37 (a) The zoning commission of each city, town or borough is
38 authorized to regulate, within the limits of such municipality, the
39 height, number of stories and size of buildings and other structures;
40 the percentage of the area of the lot that may be occupied; the size of
41 yards, courts and other open spaces; the density of population and the
42 location and use of buildings, structures and land for trade, industry,
43 residence or other purposes, including water-dependent uses, as
44 defined in section 22a-93, and the height, size and location of

45 advertising signs and billboards. Such bulk regulations may allow for
46 cluster development, as defined in section 8-18. Such zoning
47 commission may divide the municipality into districts of such number,
48 shape and area as may be best suited to carry out the purposes of this
49 chapter; and, within such districts, it may regulate the erection,
50 construction, reconstruction, alteration or use of buildings or
51 structures and the use of land. All such regulations shall be uniform
52 for each class or kind of buildings, structures or use of land throughout
53 each district, but the regulations in one district may differ from those
54 in another district, and may provide that certain classes or kinds of
55 buildings, structures or uses of land are permitted only after obtaining
56 a special permit or special exception from a zoning commission,
57 planning commission, combined planning and zoning commission or
58 zoning board of appeals, whichever commission or board the
59 regulations may, notwithstanding any special act to the contrary,
60 designate, subject to standards set forth in the regulations and to
61 conditions necessary to protect the public health, safety, convenience
62 and property values. Such regulations shall be made in accordance
63 with a comprehensive plan and in adopting such regulations the
64 commission shall consider the plan of conservation and development
65 prepared under section 8-23, as amended by this act. Such regulations
66 may reflect the principles identified in subsection (d) of said section 8-
67 23. Such regulations shall be designed to lessen congestion in the
68 streets; to secure safety from fire, panic, flood and other dangers; to
69 promote health and the general welfare; to provide adequate light and
70 air; to prevent the overcrowding of land; to avoid undue concentration
71 of population and to facilitate the adequate provision for
72 transportation, water, sewerage, schools, parks and other public
73 requirements. Such regulations shall be made with reasonable
74 consideration as to the character of the district and its peculiar
75 suitability for particular uses and with a view to conserving the value
76 of buildings and encouraging the most appropriate use of land
77 throughout such municipality. Such regulations may, to the extent

78 consistent with soil types, terrain, infrastructure capacity and the plan
79 of conservation and development for the community, provide for
80 cluster development, as defined in section 8-18, in residential zones.
81 Such regulations shall also encourage the development of housing
82 opportunities, including opportunities for multifamily dwellings,
83 consistent with soil types, terrain and infrastructure capacity, for all
84 residents of the municipality and the planning region in which the
85 municipality is located, as designated by the Secretary of the Office of
86 Policy and Management under section 16a-4a. Such regulations shall
87 also promote housing choice and economic diversity in housing,
88 including housing for both low and moderate income households, and
89 shall encourage the development of housing which will meet the
90 housing needs identified in the housing plan prepared pursuant to
91 section 8-37t and in the housing component and the other components
92 of the state plan of conservation and development prepared pursuant
93 to section 16a-26. Zoning regulations shall be made with reasonable
94 consideration for their impact on agriculture. Zoning regulations may
95 be made with reasonable consideration for the protection of historic
96 factors and shall be made with reasonable consideration for the
97 protection of existing and potential public surface and ground
98 drinking water supplies. On and after July 1, 1985, the regulations shall
99 provide that proper provision be made for soil erosion and sediment
100 control pursuant to section 22a-329. Such regulations may also
101 encourage energy-efficient patterns of development, the use of solar
102 and other renewable forms of energy, and energy conservation. The
103 regulations may also provide for incentives for developers who use
104 passive solar energy techniques, as defined in subsection (b) of section
105 8-25, in planning a residential subdivision development. The
106 incentives may include, but not be limited to, cluster development,
107 higher density development and performance standards for roads,
108 sidewalks and underground facilities in the subdivision. Such
109 regulations may provide for a municipal system for the creation of
110 development rights and the permanent transfer of such development

111 rights, which may include a system for the variance of density limits in
112 connection with any such transfer. Such regulations may also provide
113 for notice requirements in addition to those required by this chapter.
114 Such regulations may provide for conditions on operations to collect
115 spring water or well water, as defined in section 21a-150, including the
116 time, place and manner of such operations. No such regulations shall
117 prohibit the operation of any family day care home or group day care
118 home in a residential zone. Such regulations shall not impose
119 conditions and requirements on manufactured homes having as their
120 narrowest dimension twenty-two feet or more and built in accordance
121 with federal manufactured home construction and safety standards or
122 on lots containing such manufactured homes which are substantially
123 different from conditions and requirements imposed on single-family
124 dwellings and lots containing single-family dwellings. Such
125 regulations shall not impose conditions and requirements on
126 developments to be occupied by manufactured homes having as their
127 narrowest dimension twenty-two feet or more and built in accordance
128 with federal manufactured home construction and safety standards
129 which are substantially different from conditions and requirements
130 imposed on multifamily dwellings, lots containing multifamily
131 dwellings, cluster developments or planned unit developments. Such
132 regulations shall not prohibit the continuance of any nonconforming
133 use, building or structure existing at the time of the adoption of such
134 regulations. Such regulations shall not provide for the termination of
135 any nonconforming use solely as a result of nonuse for a specified
136 period of time without regard to the intent of the property owner to
137 maintain that use. Any city, town or borough which adopts the
138 provisions of this chapter may, by vote of its legislative body, exempt
139 municipal property from the regulations prescribed by the zoning
140 commission of such city, town or borough; but unless it is so voted
141 municipal property shall be subject to such regulations.

142 Sec. 3. (NEW) Within available appropriations, the Secretary of the
143 Office of Policy and Management shall administer a program of grants

144 to municipalities for reimbursement of costs incurred in (1) amending
145 the plan of development of municipality to reflect the principles
146 identified in subsection (d) of section 8-23 of the general statutes, as
147 amended by this act, or (2) revising zoning regulations adopted under
148 section 8-2 of the general statutes, as amended by this act, to reflect the
149 principles identified in section 8-23 of the general statutes, as amended
150 by this act. Each grant shall be equal to fifty per cent of the cost of
151 amendment revision, except that no grant shall be in excess of fifty
152 thousand dollars.

153 Sec. 4. (NEW) As used in section 5 of this act and section 16a-27 of
154 the general statutes, as amended by this act, "priority investment area"
155 means that portion of a municipality that is subject to the provisions of
156 the plan of development prepared pursuant to section 8-23 of the
157 general statutes, as amended by this act, and the zoning regulations,
158 adopted pursuant to section 8-2 of the general statutes, as amended by
159 this act, that reflect the principles identified in subsection (d) of said
160 section 8-23.

161 Sec. 5. (NEW) The planning commission of any municipality may,
162 by resolution, designate priority investment areas. The planning
163 commission shall notify the Secretary of the Office of Policy and
164 Management of the designation of priority investment areas within
165 thirty days of such designation.

166 Sec. 6. Section 16a-27 of the general statutes is repealed and the
167 following is substituted in lieu thereof:

168 (a) The secretary, after consultation with all appropriate state,
169 regional and local agencies and other appropriate persons shall prior
170 to March 1, 1997, complete a revision of the existing plan and enlarge it
171 to include, but not be limited to, policies relating to transportation,
172 energy and air. Any revision made after May 15, 1991, shall identify
173 the major transportation proposals, including proposals for mass
174 transit, contained in the master transportation plan prepared pursuant

175 to section 13b-15. Any revision made after July 1, 1995, shall take into
176 consideration the conservation and development of greenways that
177 have been designated by municipalities and shall recommend that
178 state agencies coordinate their efforts to support the development of a
179 state-wide greenways system. The Commissioner of Environmental
180 Protection shall identify state-owned land for inclusion in the plan as
181 potential components of a state greenways system. Any plan adopted
182 on or after the effective date of this act shall identify priority
183 investment areas designated in a municipality pursuant to section 5 of
184 this act.

185 (b) Thereafter on or before March first in each revision year the
186 secretary shall complete a revision of the plan of conservation and
187 development.

188 Sec. 7. (NEW) (a) Notwithstanding the provisions of the general
189 statutes, on and after July 1, 2002, the state shall provide preferential
190 consideration for funding to any municipality that amends its plan of
191 conservation and development, adopted pursuant to section 8-23 of the
192 general statutes, as amended by this act, and revises its zoning
193 regulations, adopted pursuant to section 8-2 of the general statutes, as
194 amended by this act, to reflect the principles identified in subsection
195 (d) of said section 8-23.

196 (b) As used in this section "funding" includes any form of assurance,
197 guarantee, grant payment, payment in lieu of taxes, credit, tax credit or
198 other assistance, including a loan, loan guarantee or reduction in the
199 principal obligation of or rate of interest payable on a loan or a portion
200 of a loan.

201 Sec. 8. This act shall take effect July 1, 2001.

PD **JOINT FAVORABLE SUBST.**

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Uncertain

Affected Agencies: Office of Policy and Management

Municipal Impact: Potential Revenue Gain, Potential Revenue Loss

Explanation**State and Municipal Impact:**

The bill results in an uncertain impact on the state and municipalities. The bill establishes a program that could cost \$500,000 annually to the state, and it requires the Office of Policy and Management (OPM) to implement the program “within available appropriations.” It is unlikely that OPM would be able to implement the program without additional funds. However, OPM could divert resources from existing programs to fund the program established by the bill. The types of grants or sources of funding that could be reduced is unknown.

The bill allows towns that amend their conservation and development plans or zoning regulations to receive a grant from OPM. The grant amount would be equal to fifty per cent of the cost up to \$50,000.

By law, towns must review their conservation and development plans at least once every ten years. Towns typically update their plans

at that time. Most towns pay consultants to prepare conservation and development plans. It is not unusual for consulting fees to approach or exceed \$100,000. The state's share of the cost in these cases under the bill would be \$50,000. Each year, it is anticipated that nine towns would pay to have consultants prepare their plans.¹ The annual cost to the state would be approximately \$450,000.

Towns often hire consultants to conduct comprehensive revisions to zoning regulations. These revisions are done infrequently, every 20 – 30 years, and cost about \$20,000. The state's share of this cost would be \$10,000. It is anticipated that towns would conduct comprehensive revisions to conform their zoning regulations to the bill. No more than six towns are expected to conduct comprehensive revisions each year. The annual cost to the state would be about \$60,000.

The bill also requires the state to give preferential consideration to towns amending their plans and zoning regulations. Preferential consideration would be given for various types of financial assistance. The fiscal impact of this provision is uncertain, but is expected to be minimal because certain types of financial assistance (e.g., payments in lieu of taxes, local capital improvement project grants) are not allocated on a discretionary basis. Moreover, it is uncertain how state agencies would apply preferential consideration to their decisions to approve, modify and approve, or deny applications for financial assistance. To the extent that the bill's preferential consideration became a factor in allocating state grants, a revenue shift between towns could occur.

¹ It is estimated that on average, seventeen towns (169 towns / 10 years) are required to review their conservation and development plans each year. Since most towns use consultants, a majority is used to calculate cost (nine out of seventeen).

OLR BILL ANALYSIS**sHB 6603*****AN ACT PROVIDING FINANCIAL INCENTIVES FOR DEVELOPMENT OF LIVABLE COMMUNITIES.*****SUMMARY:**

This bill establishes in law a set of principles that towns can incorporate into their plans of conservation and development and zoning regulations. The principles emphasize integrating different land uses to accommodate a wide variety of activities that are within easy walking distance of each other. The integration includes a range of housing types and business uses, public and recreational spaces that invite frequent use, physical design that visually borders and sets apart communities, and land and energy conservation. Current law already permits plans of conservation and development and zoning regulations to adopt similar principles, including (1) energy-efficient development, (2) housing to accommodate people from a wide-range of income levels, and (3) cluster development.

The bill requires the Office of Policy and Management (OPM) secretary to provide towns, within existing appropriations, with matching grants of up to \$50,000 for the cost of amending their plans or zoning regulations to reflect the principles. It also requires the state to give any towns that have amended their plans and zoning regulations “preferential consideration” for state funding.

Under the bill, planning commissions may, by resolution, designate the areas affected by the revised plan and regulations as priority investment areas. Planning commissions must notify OPM within 30 days of designating these areas, and OPM must identify them in the state plan of conservation and development in its next plan update.

Once included in the state plan, the priority investment area designation could influence whether the state decides to approve proposed projects in those areas. The law requires that any state-

funded physical development of more than \$100,000 be consistent with the state plan. The OPM secretary must advise state agencies as to whether a proposed state project is consistent with the plan.

EFFECTIVE DATE: July 1, 2001

LAND-USE PRINCIPLES

The bill allows planning and zoning commissions to incorporate the following principles in their plans of conservation and development and zoning regulations.

Integrating Diverse Uses

This principle emphasizes (1) promotion of complete and integrated communities containing housing, shops, workplaces, schools, parks, and civic facilities essential in daily life; (2) inclusion of a wide variety of housing types conducive to residents with a wide range of incomes and ages; and (3) inclusion of a wide range of businesses within the community to provide a spectrum of jobs.

Pedestrian Emphasis

This principle emphasizes (1) community design to ensure that housing, jobs, transit stops, and other daily needs and related activities are within walking distance of each other and (2) center-focused design that combines commercial, civic, cultural, and recreational uses to bring people to the downtown or main street area.

Public Life

This principle emphasizes (1) design and inclusion of squares, greens, parks, and other open spaces to invite frequent use; and (2) design public spaces that encourage the presence of people at all hours.

Movement/Transportation Patterns

This principle emphasizes (1) the location of as many activities as possible within walking distance of transit stops, (2) design of transit networks that complement the community's location and character,

and (3) design of a system of streets and paths to accommodate pedestrians and bicyclists while encouraging lower-speed vehicular traffic.

Identity

This principle emphasizes design that visually borders and creates a well-defined edge for each community, such as greenbelts or wildlife corridors permanently protected from development.

Conservation

This principle includes (1) community design to conserve resources and minimize waste; (2) preservation, if possible, of natural terrain, drainage, and vegetation; (3) use of natural drainage, drought tolerant landscaping, and water recycling; and (4) energy efficient community design through street orientation, building placement, and use of shading.

The principles emphasize presenting visual models for all development applications as a planning technique.

PREFERENTIAL CONSIDERATION

On and after July 1, 2002, the state must give preferential consideration for funding to any municipality incorporating the principles in its plan and zoning regulations. The bill does not define “preferential consideration.” It specifies that funding includes any form of assurance, guarantee, grant payment, payment in lieu of taxes, credit, tax credit, loan, loan guarantee or reduction in the principle obligation or interest rate payable on a loan.

The bill appears to affect programs over which agencies have some discretion in awarding aid, but it is not clear how it affects programs that award aid based on statutory formulas.

BACKGROUND

Related Bills

HB 6599 (File 211) requires zoning commissions to make zoning regulations consistent with the local plan of conservation and development.

HB 6716, among other things, recodifies the statutes governing plans of conservation and development. The Planning and Development Committee reported this bill favorably on April 2.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 12 Nay 5